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BEFORE THE FEDERAL ELECTION COMMISSION

2007 OCT -3 A 11: 29

In the Matter of)
)
Georgia Medical Political Action Committee)
and Roy Vandiver, in his official)
capacity as treasurer)

MUR 5813

SENSITIVE

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

1. Take no further action as to the Georgia Medical Political Action Committee and Roy Vandiver, in his official capacity as treasurer.
2. Accept the attached signed conciliation agreement with Stephanie Verden.
3. Close the file.

II. BACKGROUND

The Federal Election Commission (the "Commission") previously found reason to believe that the Georgia Medical Political Action Committee and Roy Vandiver, in his official capacity as treasurer (the "Committee"), violated 2 U.S.C. §§ 432(c)(5); 434(b)(2), (3), (4), and 434(b)(6)(B)(v) of the Federal Election Campaign Act of 1971, as amended (the "Act") by failing to accurately disclose receipts and disbursements between November 2003 and March 2005. The Commission also found reason to believe that Stephanie Verden, an employee of the Committee knowingly and willfully violated 2 U.S.C. § 432(b)(3) by commingling Committee funds with her personal funds. The Commission's findings were based on apparent violations resulting from Verden's embezzlement of \$23,700 in Federal Committee funds over the course of sixteen months.

Consistent with previous embezzlement matters, the Commission authorized an investigation to determine whether the Committee had in place internal financial controls to

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1 prevent and detect the misappropriation of Committee funds and associated misreporting.¹ See
2 MUR 5872 (Jane Hague for Congress); MUR 5721 (Lockheed Martin Employees' PAC); MUR
3 5811 (Doggett for U.S. Congress); and MUR 5812 (Ohio State Medical Association PAC). The
4 Commission also determined to enter into pre-probable cause conciliation with Verden and
5 approved a conciliation agreement for Verden that sets forth the knowing and willful
6 commingling violations

7 As discussed below, the investigation has revealed that the Committee had in place
8 substantial financial safeguards at the time of the embezzlement. The Committee also timely
9 reported the embezzlement to the Commission and to criminal authorities. For this reason, we
10 recommend that the Commission take no further action as to the Committee. In addition, we
11 have completed conciliation negotiations with Verden, and submit a signed Conciliation
12 Agreement for approval by the Commission.

13 **III. ANALYSIS**

14 **A. Georgia Medical Association Political Action Committee**

15 Under the Act, the Committee, through its treasurer, is required to accurately disclose
16 receipts and disbursements in reports filed with the Commission. See 2 U.S.C. §§ 434(b)(2), (3),
17 (4) and (6)(B)(v). Committee treasurers are responsible for the timely and complete filing of
18 disclosure reports and for the accuracy of the information contained therein. See 11 C.F.R.
19 § 104.14(d).

¹ The Commission has since created a safe harbor from monetary penalties for a committee that has five basic internal controls in place at the time of the embezzlement, immediately informs law enforcement and the Commission of the embezzlement, and voluntarily amends reports to accurately reflect the embezzlement. See Commission Statement of Policy, *Safe Harbor for Misreporting Due to Embezzlement* ("Safe Harbor Policy"), 72 Fed. Reg. 16,695 (April 5, 2007).

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1 In this matter, the Commission found reason to believe that the Committee failed to
2 accurately disclose receipts and disbursements totaling \$23,700 related to the embezzlement of
3 Committee funds from the Committee's Federal account.² As discussed previously, the
4 Commission also authorized an investigation to determine whether the Committee had in place
5 adequate internal financial controls, a consideration when determining Committee liability for
6 reporting errors related to the embezzlement. Our investigation has revealed that the Committee
7 had internal financial controls in place at the time of the embezzlement that would normally
8 prevent the misappropriation of Committee funds. The Committee utilized a "lockbox" system
9 whereby solicitations instructed contributors to mail contributions directly to the bank and the
10 funds would then be automatically deposited into the Committee's bank account. However, there
11 were some checks that were still mailed or hand-delivered to the office of the Committee.
12 Verden was one of the Committee employees charged with receiving these contributions. When
13 this occurred, the contribution would be recorded in a logbook.³ The checks were then sent to
14 the Committee's accounting clerk who would reconcile the logbook with the checks and prepare
15 the deposit. Another individual, the Committee's Accounting Supervisor, reconciled the records
16 of deposit and the logbook of incoming checks on a monthly basis.

17 Despite the Committee's systematic procedures, Verden was able to circumvent the
18 safeguards by stealing incoming checks upon their arrival at the Committee's office. Verden
19 opened an account in the name of the Committee at the National Bank of Commerce on
20 November 21, 2003. She named herself, along with a fictitious person, Dr. William Carter, as

² Our investigation revealed that in total Verden embezzled \$141,296 90 from the Georgia Medical Association and from the Committee, of which \$23,700 was Committee funds from its Federal account.

³ The employees receiving incoming contributions, including Verden, had no banking authority

signatories on the account, and the bank statements were sent to Verden's home rather than to the Committee. Verden deposited the diverted checks into the account, and then later made several withdrawals of the funds via Automatic Teller Machines for her own personal use.

The Committee had implemented financial controls consistent with the recommendations of the Commission's Safe Harbor Policy.⁴ First, the Committee had one bank account, and it was opened in the name of the Committee, not an individual. When the account was opened, the Committee utilized an Employer Identification number, not an individual's social security number, to identify the account. The Committee had in place a process for both internal and external reviews of bank records for unauthorized transactions. Further, the treasurer reconciled the bank records to the Committee's disclosure reports prior to filing with the Commission. The treasurer was not an authorized signatory for the Committee's bank account. In addition, two Committee officials signed each check from the Committee, and at no time did Verden have signatory authority for the Committee's account. Because the embezzlement scheme perpetrated by Verden involved stealing incoming contribution checks rather than on concealing disbursements, these controls, which primarily guard against fraudulent disbursements, would not have prevented the misappropriation of Committee funds in this instance. *See Safe Harbor Policy.*

⁴ The Commission's Safe Harbor Policy recommends that: 1) All bank accounts are opened in the name of the committee, never an individual, using the committee's Employer Identification Number, not an individual's Social Security Number; 2) Bank statements are reviewed for unauthorized transactions and reconciled to the accounting records each month by someone other than a check signer or an individual responsible for the committee's accounting, and the bank records are reconciled to disclosure reports prior to filing; 3) Checks in excess of \$1000 are authorized in writing and/or signed by two individuals, as are all wire transfers; 4) An individual who does not handle the committee's accounting or have banking authority receives incoming checks and monitors all other incoming receipts, placing a restrictive endorsement, such as "For Deposit Only to the Account of the Payee" on all checks; and 5) If the committee has a petty cash fund, an imprest system is used. In addition, the Commission recommends that upon discovery of the misappropriation of funds, a committee should notify relevant law enforcement of the misappropriation, notify the Commission of the misappropriation, and voluntarily amend disclosure reports to correct reporting errors due to the misappropriation. *See Safe Harbor Policy.*

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1 In addition to internal financial controls, the Committee also regularly utilized outside
2 auditors to review its financial records. In fact, it was an outside auditor who discovered the
3 embezzlement. On March 23, 2005, the auditor, when reconciling Georgia Medical Association
4 membership records with bank deposits, noticed that there were no checks for membership dues
5 for three individuals listed as paid current members. Georgia Medical Association officials
6 contacted these members, who in turn provided cancelled checks for their membership dues. It
7 was then that officials learned that the checks had been deposited into the bank account
8 improperly opened by Verden.

9 The Committee, upon learning of the embezzlement scheme in October 2005,
10 immediately contacted the Reports Analysis Division to report the embezzlement and to inquire
11 about the proper procedure for amending the resulting reporting errors. In January 2006, the
12 Committee amended all disclosure reports affected by the misappropriation of Committee funds
13 to accurately reflect receipts and disbursements. Upon completion of the Committee's internal
14 financial audit in November 2005, the Committee also contacted the Federal Bureau of
15 Investigation and cooperated in the resulting criminal investigation. Verden was eventually
16 charged with and pled guilty to twenty counts of bank fraud, and is currently serving a one-year
17 prison sentence in a Florida Federal prison.⁵

18 Although the Committee failed to accurately report receipts and disbursements resulting
19 from the embezzlement of Committee funds, in violation of the Act, the Committee had in place
20 significant internal financial controls that could not have prevented the embezzlement scheme

⁵ Verden was also ordered to pay restitution to the Committee and to the Georgia Medical Association totaling \$141,296.90, and to pay \$2,000 in costs (\$100 for each of the twenty counts in the Government's indictment) to the Government.

perpetuated by Verden. Because the Committee appropriately tried to prevent the embezzlement of Committee funds by implementing significant internal financial safeguards that were in place at the time of the embezzlement, we recommend that the Commission take no further action and close the file as to the Georgia Medical Political Action Committee and Roy Vandiver, in his official capacity as treasurer.

B. Stephanie Verden

Attached is a signed conciliation agreement negotiated with Verden. Attachment 1. The agreement with Verden recites the pertinent facts and contains a knowing and willful admission and an agreement to cease and desist from further violations. The agreement also prohibits Verden from working or volunteering in federal political campaigns in a capacity involving a political committee's fundraising or finances. However, the agreement eliminates the payment of a civil penalty due to Verden's poor financial condition, but includes a provision stating that Verden will pay the full opening settlement offer if her financial condition was misrepresented to the Commission.

we learned that Verden was criminally prosecuted for her illegal conduct. She pled guilty to twenty counts of bank fraud in connection with the activity, and was sentenced to serve the related prison sentence at the Federal Correctional Institute in Marianna, Florida. Verden was also ordered to pay restitution to the Committee and to the Georgia Medical Association totaling \$141,296.90, and to pay \$2,000 in costs to the Government.⁶

Verden submitted documentation that supports her contention that she has no assets and no income out of which she could pay a civil penalty. She is currently incarcerated and has no income,

⁶ Due to difficulties locating Verden, she was not served with the Commission's Factual and Legal Analysis until May 4, 2007.

and receives a pension of \$305 per month for her prior service with Eastern Airlines. Verden also has undisputed debts in excess of \$200,000, which include back taxes, restitution owed to the Georgia Medical Association and to the Committee; and assorted other debts. In addition, Verden and her counsel contend that when released she will be the sole supporter of her spouse, who is unable to work because of illness. Due to the mitigating circumstances presented by Respondent Verden's financial condition and by her criminal conviction to related charges, we recommend that the Commission accept the signed conciliation agreement

IV. RECOMMENDATIONS

1. Take no further action as to the Georgia Medical Political Action Committee and Roy Vandiver, in his official capacity as treasurer;
2. Accept the attached Conciliation Agreement as to Respondent Stephanie Verden;
3. Approve the appropriate letters; and

4. Close the file.

10/3/07
Date

Thomasenia P. Duncan
General Counsel

BY: Ann Marie Terzaken by CET
Ann Marie Terzaken
Acting Associate General Counsel
for Enforcement

Cynthia E. Tompkins
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Assistant General Counsel

Wanda D. Brown
Wanda D. Brown
Attorney

Attachment:
Signed Conciliation Agreement

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